

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

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| JACK F. BRAKEBILL, <i>et al.</i> , |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | No. 3:14-CV-105-TAV-CCS |
| |) | |
| HERBERT MONCIER, ESQ., <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM AND ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and Standing Order 13-02.

Now before the Court is Defendant Herbert Moncier's Motion to Compel Plaintiffs Jack F. Brakebill and Donna Brakebill to Permit Rule 34 Inspection of Requested Documents [Doc. 103]. In his motion, Mr. Moncier moves the Court "to compel Jack F. Brakebill and Donna Brakebill permit inspection of documents prior to their depositions on August 4th and 5th respectively." [*Id.* at 1].

As indicated in Mr. Moncier's motion, the depositions of Jack Brakebill and Donna Brakebill were scheduled to take place on August 4, 2014, and August 5, 2014. [*See* Doc. 101]. No party has filed a notice stating that these depositions did not take place. Thus, the Court finds that the depositions at which Mr. Moncier seeks to have production made appear to have already been taken. The Court further finds that August 4 and August 5, 2014, the dates on which Mr. Moncier sought to have production take place, have already passed.

Accordingly, the Court finds that the Motion to Compel [**Doc. 103**] is now moot, and it is **DENIED WITHOUT PREJUDICE**, to allow refile, if appropriate, following disposition of the Motion for Entry of Protective Order [Doc. 85] and Motion to Bifurcate Discovery [Doc. 86].

Because the Motion to Compel is denied as moot, the Court finds that Mr. Moncier's Motion to Revise Order [Doc. 178], which moves the Court to send notice setting the Motion to Compel¹ for hearing on October 9, 2014, is also moot. Therefore, Mr. Moncier's Motion to Revise Order [**Doc. 178**] is also **DENIED AS MOOT**.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge

¹ Mr. Moncier filed his Motion to Revise Order [Doc. 178], on September 26, 2014, and moved the Court to revise a notice of hearing that was entered on September 24, 2014, setting various motions for hearing on October 9, 2014. Mr. Moncier complained that the notice should have also set his Motions to Compel [Docs. 90, 93, and 103] for hearing on October 9, 2014. On August 8, 2014, the Court entered an Order [Doc. 120] denying the first of these Motions to Compel [Doc. 90] as moot. On September 24, 2014, the Court entered an Order [Doc. 171] denying the second of these Motions to Compel [Doc. 93] as moot. Thus, both of these motions were already denied when Mr. Moncier filed his motion. The final Motion to Compel [Doc. 103] is denied as moot by the instant Memorandum and Order.